BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

In the Matter of: Opinion requested by Dugald Gillies, Vice President California Association of Realtors	No. 75-063 November 4, 1975

BY THE COMMISSION: We have been asked the following questions by Dugald Gillies, Vice President of the California Association of Realtors:

The California Association of Realtors will sponsor its fourth annual Legislative Day in Sacramento. It will be attended by realtors, realtor associates and employees of local boards of realtors. The event this year is scheduled to parallel with a meeting of the Association's Board of Directors, and some of the people attending Legislative Day also will attend the Board of Directors' meeting. The salient facts are as follows: The program involves, among other things, contact with legislators from the districts of individual realtors. Employees of local boards attending the program will not be paid compensation for this activity. It is, however, the practice of many local boards to reimburse their members for expenses incurred in attending the program.

The California Association of Realtors is an employer of a lobbyist. A few of the local boards of realtors also are employers of lobbyists, but this opinion is not concerned with these boards.

(1) If a local board expends $250 or more during a month to reimburse individuals for expenses incurred in attending Legislative Day and the Board of Directors' meeting, is this a payment to influence legislative or administrative action?

(2) Would such a board become an employer of a lobbyist and be required to file a report?

(3) If a report were required, but no further amounts were expended in subsequent months, would reports be required for the subsequent months?

(4) If a board sponsors a dinner to which their legislative representatives are invited, and the board incurs $250 or more in expenses, what are the reporting requirements under Proposition Nine?

(5) Would the answer to question No. 4 be different if the legislator paid for the cost of his meal at the dinner?

(6) In the event that a local board did not incur any expenses in connection with Legislative Day, but did incur $250 or more in expenses in connection with sending members to the Board of Directors' meeting, and if the proportion of participation in activities related to the legislative program resulted in $250 or more in expenditures for that purpose, would the local board thus become an employer of a lobbyist and be required to report?

CONCLUSION

(1) A payment of $250 or more reimbursing expenses incurred by attendees at Legislative Day and the Board of Directors' session is a payment to influence legislative action.

(2) A local board would not be an employer of a lobbyist but would be required to file a report.

(3) No reports would be required for any month in which no payments are made.

(4) The local board is required to report the amount expended on dinners which their legislative representatives attend as a payment to influence legislative or administrative action.

(5) The conclusion to question No. 4 is not altered by the fact that the legislator pays the cost of his dinner.

(6) A local board making a payment of $250 or more to send members to the Board of Directors' meeting for the purpose of participation in the legislative program is required to report, although it does not thereby become an employer of a lobbyist.

ANALYSIS

(1) Any person who makes payments of $250 or more in value in any month to influence legislative or administrative

action must file periodic reports. Government Code Section 86108(b).1/ One of the purposes of the realtors' Legislative Day is to contact legislators and perhaps to discuss legislative proposals with them. Whether these contacts are made in order to accomplish a specific legislative goal or merely to become acquainted with legislators for the more general goal of calling the attention of the legislators to the realtors and their interest in legislative matters, the activities constitute attempting to influence legislative action within the meaning of the Political Reform Act. Payments to employees of the local boards for such purposes would be covered by Section 82045(d) of the Act which defines "payments to influence legislative or administrative action" as including:

> Payment, including compensation, payment or reimbursement for the services, time or expenses of an employee, for or in connection with direct communication with any elective state official, legislative official or agency official;

Payments to members of boards would be reported because of Section 82045(e) which includes within the definition:

> Payment for or in connection with soliciting or urging other persons to enter into direct communication with any elective state official, legislative official or agency official.

However, if the payments of expenses covered not only the lobbying activities but also participation and attendance at the Board of Directors' meeting, then these expenses should be prorated to reflect only those payments used to influence legislative or administrative action.

(2) A board does not become the employer of a lobbyist by reason of the activities described in question No. 1. However, it does incur reporting obligations pursuant to Section 86108(b), as discussed above.

(3) Any person who makes payments of $250 or more in any month to influence legislative or administrative action is required to file reports. If no such payments are made in a month, then the person has no filing obligations under Section 86108(b). However, if no report is required to be filed during the month following any filing because the $250 amount is not

---

1/ All statutory references are to the Government Code unless otherwise noted.

reached, the person must so inform the Secretary of State in writing. Thereafter, the person is not required to file monthly reports unless such reports are again required by reason of payments made which total $250 or more in a calendar month. 2 Cal. Adm. Code Section 18621(c).

(4) A payment for a dinner attended by a legislator is a payment to influence legislative action if the dinner's purpose, or one of its purposes, is to accomplish a specific legislative goal or generally call attention to the realtors' interest in legislative matters. Section 86108(b) establishes the reporting requirement for this expenditure by requiring the following persons to file statements in accordance with the provisions of Section 86109:

> Any person who directly or indirectly makes payments to influence legislative or administrative action of two hundred fifty dollars ($250) or more in value in any month <u>unless all of the payments were of the type described in Section 82045(c).</u>
>
> Section 86108(b)
> (Emphasis added.)

The local board can avoid the Section 86108(b) filing requirements only if the full amount expended is a "payment which directly or indirectly benefits any elective state official...." Section 82045(c). However, in the facts presented, the payment is not for the sole benefit of the legislators. Rather, the dinner also is for the benefit of the members since it enables them to communicate with the legislators. Therefore, the payment is a payment to influence within the meaning of Section 82045(d) and is reportable pursuant to Section 86108(b).

(5) The conclusion to question No. 4 is not altered by the fact that the legislator pays the cost of his dinner. The reporting requirement of Section 86108(b) is activated by the expenditure of $250 or more to influence legislative or administrative action. If the requisite amount is spent for the designated purpose, the fact that a legislator pays for his dinner does not eliminate the need for disclosure of the expenditure of $250 or more to influence legislative or administrative action.

(6) Sending members to the Board of Directors' meeting does not make a local board the employer of a lobbyist. If the Board of Directors' meeting involves activities deemed to be influencing legislative or administrative action to a sufficient

extent that the payment by the local board totals $250 or more to support participation in these activities, the local board must file a report under Section 86108(b).

Approved by the Commission on November 4, 1975. Concurring: Brosnahan, Carpenter, Lowenstein and Miller. Commissioner Waters was absent.

Daniel H. Lowenstein
Chairman